

EXHIBIT GG

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 TOMORROWNOW, INC.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

ORACLE USA, INC., et al.,
 Plaintiffs,
 v.
 SAP AG, et al.,
 Defendants.

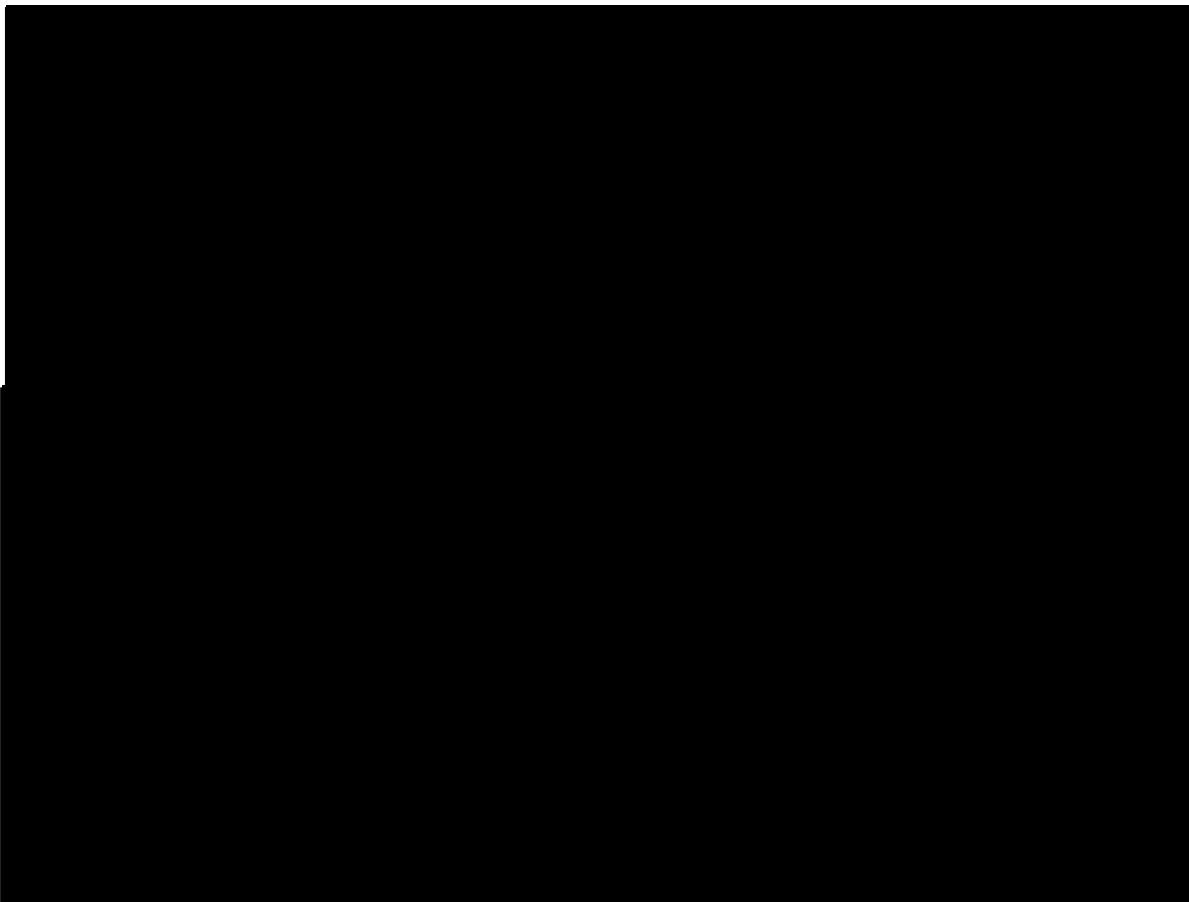
Case No. 07-CV-1658 PJH

**DEFENDANT TOMORROWNOW,
 INC.'S SIXTH AMENDED AND
 SUPPLEMENTAL RESPONSE TO
 PLAINTIFF ORACLE
 CORPORATION'S FIRST SET OF
 INTERROGATORIES (SET ONE)**

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INTERROGATORY NO. 13:

Describe in as much detail as possible all Software and Support Materials that “have been downloaded beyond those that, according to TN’s records, related to applications licensed to the particular customer on whose behalf the downloads were made,” as alleged in ¶ 15 of Your Answer, including but not limited to Identifying the “records” You referenced in making Your determination.



FOURTH SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 13:

THIS FOURTH SUPPLEMENTAL RESPONSE IS DESIGNATED AS
CONFIDENTIAL INFORMATION.

Paragraphs 75 through 80 of Plaintiffs' March 22, 2007 Complaint lists several alleged TomorrowNow customers for whom Plaintiffs alleged they had "uncovered unlicensed downloads linked to" TomorrowNow. Plaintiffs' March 22, 2007 Complaint for Damages and Injunctive Relief ("Original Complaint") (Docket Entry No. 1), at ¶ 75 (24:21-22). After receiving the Complaint, TomorrowNow, with the assistance of its counsel¹ in this litigation, began an investigation in an attempt to determine what downloads TomorrowNow made on

¹ Judge Laporte's August 31, 2009 Order (Dkt. 460), under which this Fourth Supplemental Response is made, specifically states: "Defendants' supplemental response to Interrogatory No. 13 shall not be construed as a waiver of either the attorney-client privilege or work product immunity." *Id.* at 1:26-28. Thus, this response is made subject to, and without waiving, the attorney-client privilege, work product immunity or any other applicable privilege. This supplemental response does not, and is not intended to, contain any legal advice or opinions.

behalf of those customers and which, if any, any such downloads which were beyond those for which each customer had indicated to TomorrowNow it was licensed. At the same time, TomorrowNow, with the assistance of its counsel in this litigation, systematically engaged in an effort to preserve all electronic and hard copy data that was potentially relevant to Plaintiffs' allegations and began interviewing those TomorrowNow employees with knowledge of TomorrowNow's downloading activities.

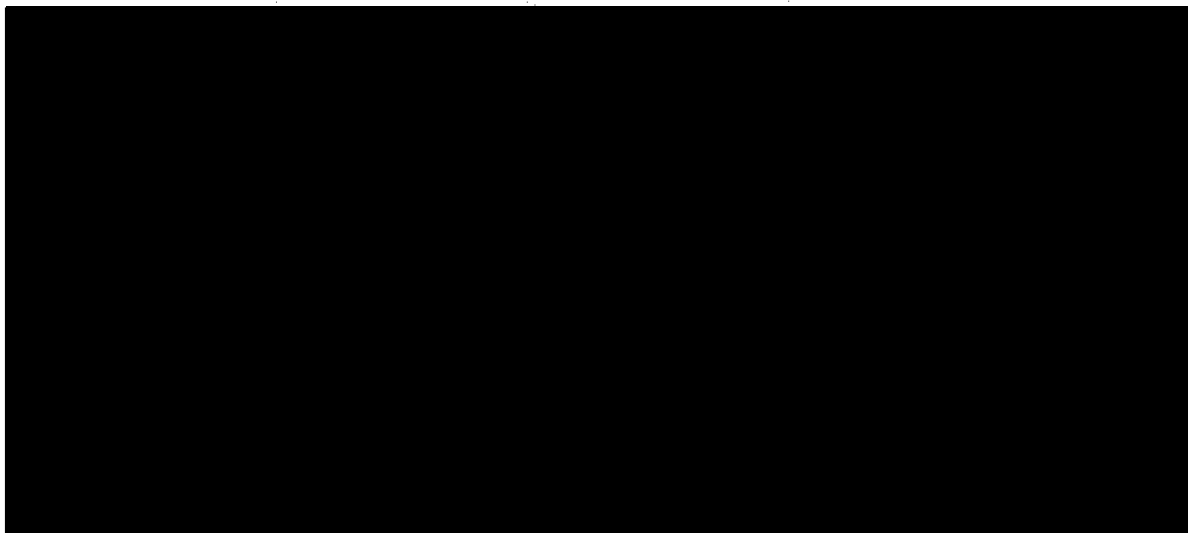
For certain of the entities named in paragraphs 75-80 of the Original Complaint, TomorrowNow preliminarily concluded by May 30, 2007 that TomorrowNow had the following minimum number of downloaded files for at least the following entities:

Customer Name	PeopleSoft Software	JDEdwards Software	Listed in Paragraphs 76-80 of Complaint	Listed in Paragraph 75 of Complaint	Minimum downloaded files located on TomorrowNow's server as of May 30, 2007
Honeywell	Y		Y	Y	18,210
Merck		Y	Y	Y	14,591
Metro Machine Corp		Y	Y	Y	15,499
Oce Technologies		Y	Y	Y	46,810
SPX Cooling		Y	Y	Y	11,243
SPX Flow		Y	Y	Y	7,664
SPX Flow Technology		Y	Y	Y	2,157
SPX Weil-McLain		Y	Y	Y	12,313
Abbott Labs		Y		Y	1,915
Abitibi Consolidated		Y		Y	36,405
Bear Stearns	Y			Y	0
Borders Foods		Y		Y	0
Caterpillar		Y		Y	6,258
Fuelserv		Y		Y	2,329
Helzberg Diamond Shop		Y		Y	0
Herbert Waldmann		Y		Y	5,126
Laird Plastic		Y		Y	2,261
National Manufacturing		Y		Y	0
Ronis		Y		Y	3,370
Stora Enso Corp		Y		Y	14,711
Texas Associates School Boards		Y		Y	3,236
VSM Group		Y		Y	2,775
Yazaki North America		Y		Y	45,751

These files were located on TomorrowNow's server known as DCITBU01_G, which has been produced to Plaintiffs as part of TomorrowNow's Data Warehouse native file production.

1 See DCITBU01_G (TN-OR02989997, TN-OR02989995, TN-OR02989994, TN-OR02989993).
2 And, as of May 30, 2007, TomorrowNow had preliminarily concluded that these files appeared to
3 have been downloaded using each respective customer's username and password credentials,
4 which were either listed on a spreadsheet the TomorrowNow JDE team maintained that was
5 known as "Download Priorities.xls" and/or in various places in each customers' record entries in
6 TomorrowNow's SAS database. See TN-OR08312517. See also DCITBU01_G/JDE_1-3/JDE
7 Clients - TNOW/Download Request/Download_Priorities.xls; Second Supplemental Response to
8 Interrogatory 10 above, for a description of how to access the "Connectivity Info" tab in SAS.
9 For Honeywell and Bear Stearns, TomorrowNow had preliminarily concluded as of May 30, 2007
10 that: (a) Honeywell's apparent customer credentials that were used to download its files were
11 username "hwe000999" and password "texas33," which is located in Honeywell's data contained
12 in SAS under "Connectivity Info"; and (b) Bear Stearns' apparent customer credentials that were
13 used to download its files was username "tomorrownow_bs" and password "texas3" which is
14 located in Bear Stearns' data contained in SAS under "Connectivity Info". See, e.g., TN-OR
15 04446717, TN (Disc).173. As far as TomorrowNow has been able to determine, the downloaded
16 files neither contain any physical electronic tagging in the file itself, nor any file-based metadata
17 associated with each file that provides both the exact username and password that was used to
18 download each file.

19 Despite the fact that, as of May 30, 2007, TomorrowNow was able to ascertain that a
20 certain number of files were downloaded by TomorrowNow on behalf of certain entities,
21 TomorrowNow was unable to locate any specific product mapping information that would enable
22 TomorrowNow to systematically tie any specific download to one or more of Plaintiffs'
23 separately licensed products. Since that time, Defendants have repeatedly asked Plaintiffs for this
24 product mapping information and to date, Plaintiffs have refused and/or been unable to produce
25 any information that would permit Defendants in any systematic, reasonable way to tie each
26 specific downloaded file to one or more of Plaintiffs' separately licensed products. Thus, as of
27 May 30, 2007, TomorrowNow was still unable to determine specifically which of the downloaded
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10 Finally, because Plaintiffs have refused and/or are unable to provide adequate product
11 mapping information that would enable the cross-referencing of every one of Plaintiffs
12 downloadable files to each and every one of Plaintiffs' potentially applicable separately licensed
13 products to which those downloads relate, TN has not been able to conduct a download-by-
14 download analysis to conclude for each download on TN's servers which ones were for those
15 products that TN's customers indicated they were licensed to and which ones were not.

16 Moreover, TN does not concede that Plaintiffs are able to meet their burden of proof on any of
17 their claims now that years have passed in discovery in this case without Plaintiffs producing the
18 definitive product-to-download mapping information that Defendants have requested since the
19 beginning of the case.

20 **INTERROGATORY NO. 14:**

PROOF OF SERVICE

I, Laurie Paige Burns, declare:

I am a citizen of the United States and employed in San Francisco County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 555 California Street, 26th Floor, San Francisco, California 94104. On September 18, 2009, I served a copy of the attached document(s):

**DEFENDANT TOMORROWNOW, INC.'S SIXTH AMENDED AND
SUPPLEMENTAL RESPONSE TO PLAINTIFF ORACLE CORPORATION'S FIRST
SET OF INTERROGATORIES (SET ONE)**

- ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below.
- ☐ by placing the document(s) listed above in a sealed Federal Express envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a Federal Express agent for delivery.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☒ by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

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Executed on September 23, 2009, at San Francisco, California.

By: 

LAURIE PAIGE BURNS